

AMENDED IN SENATE MAY 29, 2012  
AMENDED IN SENATE APRIL 9, 2012  
AMENDED IN SENATE MARCH 29, 2012  
AMENDED IN SENATE MARCH 12, 2012

**SENATE BILL**

**No. 1002**

---

---

**Introduced by Senator Yee**

February 6, 2012

---

---

An act to amend Section 6253.9 of, and to add ~~Chapter 3.6 (commencing with Section 6278) to Division 7 of Title 1 of Section 6253.91 to~~, the Government Code, relating to public records.

LEGISLATIVE COUNSEL'S DIGEST

SB 1002, as amended, Yee. Public records: electronic format.

(1) The California Public Records Act requires state and local agencies to make their records available for public inspection and, upon request of a person, to provide a copy of a public record unless the record is exempt from disclosure. The act requires an agency that has information that constitutes an identifiable public record not otherwise exempt from disclosure that is in an electronic format to make that information available in an electronic format when requested by a person. The act requires the agency to make the information available in an electronic format in which it holds the information.

This bill would authorize an agency, ~~when requested by a person upon request~~, to provide *a copy of* an electronic record in a format in which the text in the electronic record is searchable by commonly used software. The bill would require the requester to bear the cost of converting the electronic record into a searchable format. ~~The bill would~~

~~prohibit an agency from charging a requester for the cost of specified services.~~

~~This bill would also make technical, nonsubstantive changes to these provisions.~~

(2) Existing law requires certain state and local agencies to make specified data or documents available to the public by various methods, including on the Internet.

This bill would require that in certain circumstances the data or document be made available *to the public* in an open format, as defined. The requirement would not apply if the state or local agency does not ~~have~~ *maintain* the data or document ~~available for internal use~~ in an open format.

*By imposing new duties on local agencies, this bill would impose a state-mandated local program.*

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6253.9 of the Government Code is  
2 amended to read:

3 6253.9. (a) Unless otherwise prohibited by law, an agency  
4 that has information that constitutes an identifiable public record  
5 not exempt from disclosure pursuant to this chapter that is in an  
6 electronic format shall make that information available in an  
7 electronic format when requested by a person and, when applicable,  
8 shall comply with the following:

9 (1) The agency shall make the information available in an  
10 electronic format in which it holds the information.

11 (2) Each agency shall provide a copy of an electronic record in  
12 the format requested if the requested format is one that has been  
13 used by the agency to create copies for its own use or for provision

1 to other agencies. The cost of duplication shall be limited to the  
2 direct cost of producing a copy of a record in an electronic format.

3 (b) Notwithstanding paragraph (2) of subdivision (a), the  
4 requester shall bear the cost of producing a copy of the record,  
5 including the cost to construct a record, and the cost of  
6 programming and computer services necessary to produce a copy  
7 of the record when either of the following applies:

8 (1) In order to comply with subdivision (a), the public agency  
9 would be required to produce a copy of an electronic record and  
10 the record is one that is produced only at otherwise regularly  
11 scheduled intervals.

12 (2) The request would require data compilation, extraction, or  
13 programming to produce the record.

14 ~~(c) Notwithstanding subdivision (b), an agency shall not charge~~  
15 ~~a requester for the cost for any of the following:~~

16 ~~(1) For data extraction, when the agency is exercising an~~  
17 ~~exemption. Extraction shall not include the redaction of exempt~~  
18 ~~information from an electronic record.~~

19 ~~(2) For extraction, compilation, programming, or conversion of~~  
20 ~~data to a different medium if the task is initiated by, and performed~~  
21 ~~for the benefit of, the agency.~~

22 ~~(d)~~

23 (c) This section shall not be construed to require the public  
24 agency to reconstruct a record in an electronic format if the agency  
25 no longer has the record available in an electronic format.

26 ~~(e)~~

27 (d) If the request is for information in other than electronic  
28 format, and the information also is in electronic format, the agency  
29 may inform the requester that the information is available in  
30 electronic format.

31 ~~(f) At the request of a person~~

32 (e) *Upon request*, an agency may provide *a copy of* an electronic  
33 record in a format in which the text in the electronic record is  
34 searchable by commonly used software if the agency does not  
35 already have the electronic record in a searchable format. The  
36 requester shall bear the cost, ~~if any~~, of converting the electronic  
37 record into a searchable format, including the cost of programming  
38 and computer services necessary to produce the electronic record.

39 ~~(g)~~

(f) This section shall not be construed to permit an agency to make information available only in an electronic format.

~~(h)~~

(g) This section shall not be construed to require the public agency to release an electronic record in the electronic form in which it is held by the agency if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

~~(i)~~

(h) This section shall not be construed to permit public access to records held by an agency to which access is otherwise restricted by statute.

~~SEC. 2. Chapter 3.6 (commencing with Section 6278) is added to Division 7 of Title 1 of the Government Code, to read:~~

~~CHAPTER 3.6. CALIFORNIA OPEN DATA STANDARD~~

~~6278. (a) Whenever a state or local agency is required by law to make electronic data or an electronic document available to the public, the data or document shall be provided in an open format.~~

~~(b) Whenever a state or local agency is required by law to make data or a document available on the Internet, the data or document shall be posted in an open format.~~

~~(c) For purposes of this chapter, "open format" means all of the following:~~

~~(1) The data or document can be located and downloaded by open-source software or public Internet applications that are available for free, or both.~~

~~(2) The data or the text in the document is machine readable and can be searched, indexed, organized, categorized, and is otherwise automatically processable.~~

~~(3) The data or document is available without restrictions that would impede the use of the information.~~

~~(4) The data or document maintains the integrity of databases and all associated relationships or mappings between data or content.~~

~~(5) The data or document provides data granularity, definitions, and structured formats in the original quality available to the state or local agency.~~

1 ~~(d) For purposes of this chapter, “open-source software” means~~  
2 ~~computer software that is provided under a free software license~~  
3 ~~that permits users to study, change, improve, and distribute the~~  
4 ~~software.~~

5 ~~(e) This section shall not be construed to require a state or local~~  
6 ~~agency to convert data or a document into an open format.~~

7 ~~(f) This section shall not be construed to require a state or local~~  
8 ~~agency to update its software or hardware.~~

9 *SEC. 2. Section 6253.91 is added to the Government Code, to*  
10 *read:*

11 *6253.91. (a) Whenever a state or local agency is required by*  
12 *law to make electronic data or an electronic document available*  
13 *to the public, and the agency maintains the data or document in*  
14 *an open format, the data or document shall be provided in an open*  
15 *format.*

16 *(b) (1) Whenever a state or local agency is required by law to*  
17 *make data or a document available on the Internet, and the agency*  
18 *maintains the data or document in an open format, the data or*  
19 *document shall be posted in an open format.*

20 *(2) This subdivision shall not apply to data or documents posted*  
21 *on the Internet before January 1, 2013.*

22 *(3) This subdivision shall not be construed to require an agency*  
23 *to repost existing data or documents currently posted and available*  
24 *on the Internet.*

25 *(c) For purposes of this section, “open format” means all of*  
26 *the following:*

27 *(1) The data or document can be located and downloaded by*  
28 *open-source software or public Internet applications that are*  
29 *available for free, or both.*

30 *(2) The data or the text in the document is machine readable*  
31 *and can be searched, indexed, organized, categorized, and is*  
32 *otherwise automatically processable.*

33 *(3) The data or document provides data granularity, definitions,*  
34 *and structured formats in the original quality available to the state*  
35 *or local agency.*

36 *(d) For purposes of this section, “open-source software” means*  
37 *computer software that is provided under a free software license*  
38 *that permits users to study, change, improve, and distribute the*  
39 *software.*

1     (e) *This section shall not be construed to require a state or local*  
2 *agency to do either of the following:*

3     (1) *Convert data or a document into an open format.*

4     (2) *Update its software or hardware.*

5     (f) *This section shall not be construed to require a public agency*  
6 *to release data or a document in an open format if its release would*  
7 *jeopardize or compromise the security or integrity of the original*  
8 *record or of any proprietary software in which it is maintained.*

9     (g) *This section shall not be construed to permit public access*  
10 *to records held by an agency to which access is otherwise restricted*  
11 *by law.*

12     SEC. 3. If the Commission on State Mandates determines that  
13 this act contains costs mandated by the state, reimbursement to  
14 local agencies and school districts for those costs shall be made  
15 pursuant to Part 7 (commencing with Section 17500) of Division  
16 4 of Title 2 of the Government Code.